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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,097	01/20/2004	Hans Spies	31439-200426	6921

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EXAMINER

ENGLISH, PETER C

ART UNIT PAPER NUMBER

3616

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

113

Office Action Summary	Application No. 10/759,097	Applicant(s) SPIES, HANS	
	Examiner Peter C. English	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/319,952.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040120</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The specification is objected to because:

At page 4, lines 8, 9, 12 and 16, "layer" should be inserted after "plastic".

At page 5, lines 8, 18, 19 and 23, "layer" should be inserted after each occurrence of "plastic".

At page 6, line 4, "13," should be "13 (see Fig. 3A),".

At page 6, lines 6, 9, 11, 12, 19 and 22, "layer" should be inserted after "plastic".

At page 7, lines 3, 4, 17 and 19, "layer" should be inserted after each occurrence of "plastic".

In the abstract, at line 6, "on" should be inserted after "based".

Appropriate correction is required.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification fails to state that the position of impact is determined "based [on] a signal waveform" (claim 1, lines 6-7).

Claim Rejections - 35 USC § 112

3. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 3 is not supported by the original disclosure because the optical accident sensor of Figs. 2A and 2B is not described in the specification as allowing for impact position to be determined based upon a spatial orientation of a detector(s). Instead, the specification describes this feature in connection with the acoustical accident sensor of Figs. 3A and 3B (see page 6, lines 6-14).

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4. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, at lines 7-8, "based a signal waveform and a determination of the transit time between impact and the detection of the signal" is indefinite because it is unclear what is defined by "based [on] a signal waveform", and because this language fails to accurately set forth invention described in the specification at page 4, line 20 to page 5, line 4; and page 5, line 17 to page 6, line 5. Further, "the signal" (line 8) lacks proper antecedent basis. The examiner suggests that lines 7-8 be replaced with the following:

"motor vehicle based on a change in radiation received by the detector over time and a transit time of radiation from an impact site to the detector,"

Claim 3 is inaccurate because the optical accident sensor of Figs. 2A and 2B is not described in the specification as allowing for impact position to be determined based upon a spatial orientation of a detector(s). Instead, the specification describes this feature in connection with the acoustical accident sensor of Figs. 3A and 3B (see page 6, lines 6-14). The examiner suggests that claim 3 be canceled.

Allowable Subject Matter

5. Claims 1 and 2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach an optical accident sensor, as defined in claim 1, including a detector that optically detects a deformation of a vehicle part by detecting a change in a beam path of light penetrating the vehicle part to determine a position of impact on a motor vehicle based on a change in radiation received by the detector over time and a transit time of radiation from an impact site to the detector.


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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. English whose telephone number is 703-308-1377. The examiner can normally be reached on Monday through Thursday (7:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter C. English
Primary Examiner
Art Unit 3616
9/15/04

pe
15 September 2004